

ATTACHMENT A

This amendment is being filed in order to place this application in condition for allowance based on the Notice of Panel Decision from Pre-Appeal Brief Review mailed May 8, 2006 together with the contents of a telephone conference between the Examiner, Mr. David Comstock and the undersigned on May 2, 2006. During that telephone discussion, the Examiner indicated that of the ten claims submitted for pre-appeal review, claim 78 would be allowed in its present form and the other nine independent claims would be allowed if amended to include the implant as a positive element in combination with the instrument.

Accordingly, this amendment amends the nine reviewed independent claims by positively reciting the implant in combination with the instrument, retains claim 78 in its present form and retains previously allowed claims 89-95 and 126-130 in their present form. In addition, claims 55-57 and 88 have been amended to correct minor § 112 informalities, namely to provide an antecedent basis.

In summary, this application now includes claims 26-46, 48-95 and 119-130.

To summarize with more specific reference to the claims, independent claims 26, 54, 59, 63, 68, 75, 81, 85 and 119 have been amended to positively recite the implant as an element of the claim, as proposed by the Examiner during the telephone discussion of May 2, 2006 for placing these claims into condition for allowance. Claim 78 has been retained in its present form since the Examiner indicated that the pre-appeal review agreed to allow this claim. (Allowance of claim 78 is not noted in the Notice of Panel Decision dated May 8, 2006. However, it is assumed that this is an oversight and that, as stated by the Examiner, claim 78, along with its dependent

claims, would in fact be allowed.) In addition, all dependent claims have been amended so that the introduction is consistent with their respective parent claims ("The invention" rather than "The instrument") and claims 55-57 and 88 have been amended in the body thereof to correct the absence of antecedent terminology.

In the Final Rejection, claims 62 and 70-74 (and in particular, claims 70 and 74) were rejected based on the lack of antecedent basis and lack of clarity (in claim 74). However, these informalities have already been corrected in the Amendment of June 2, 2005 (perhaps the Examiner was reviewing an earlier set of claims).

In view of the above, it is respectfully submitted that this application is now in condition for allowance, which action is promptly and respectfully solicited.

END REMARKS